

HOUSE BILL NO. 35

INTRODUCED BY S. STEWART PEREGOY

BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MISSING INDIGENOUS PERSONS REVIEW COMMISSION; ESTABLISHING MEMBERS, DUTIES, AND CONFIDENTIALITY REQUIREMENTS; REQUIRING REMOTE MEETINGS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Missing indigenous persons review commission -- confidentiality of meetings and records -- criminal liability for unauthorized disclosure -- reporting. (1) There is a missing indigenous persons review commission in the department of justice.

(2) ~~The~~ SUBJECT TO THE PROVISIONS OF SUBSECTION (5), THE commission shall:

(a) examine the trends and patterns of missing indigenous persons in the state;

(b) educate the public, law enforcement, and policymakers about missing indigenous persons and strategies for investigation and prevention; and

(c) recommend policies and practices that may encourage jurisdictional collaboration and coordination and reduce the incidence of missing indigenous persons.

(3) The members of the commission, not to exceed 18, are appointed by the attorney general from among the following disciplines:

(a) representatives from state departments that are involved in issues related to missing indigenous persons;

(b) representatives of private organizations that are involved in issues related to missing indigenous persons;

(c) representatives from local, state, federal, and tribal law enforcement;

(d) representatives of Indian tribes in Montana;

(e) other concerned citizens; and

(f) a member of the legislature who serves on either the house judiciary committee or the senate judiciary committee.

(4) The members shall serve without compensation by the commission ~~but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503, and members and all meetings must be held by remote means using audio or videoconferencing.~~ Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are entitled to their regular compensation. The provisions of 2-15-122 do not apply to the commission.

(5) The commission shall review closed missing persons cases selected by the attorney general to provide the commission with the best opportunity to fulfill its duties under this section. THE REVIEW MUST INCLUDE BUT IS NOT LIMITED TO:

(A) INFORMATION OBTAINED PURSUANT TO SUBSECTION (6); AND

(B) CONSIDERATION OF:

(I) WHY THE PERSON OR PERSONS WENT MISSING;

(II) WHETHER A MISSING PERSON REPORT WAS FILED IN A TIMELY MANNER;

(III) WHETHER THE PERSON OR PERSONS REMAIN MISSING;

(IV) WHETHER THE PERSON OR PERSONS WENT MISSING FROM INSIDE THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION; AND

(V) WHETHER THE COMPLEXITIES OF FEDERAL, STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT JURISDICTION INHIBITED A TIMELY AND EFFECTIVE INVESTIGATION OF THE CASE.

(6) On written request from the commission, a person who possesses information or records that are necessary and relevant to a missing persons case review, INCLUDING RELEVANT CONFIDENTIAL CRIMINAL JUSTICE INFORMATION AS DEFINED IN 44-5-103, shall, as soon as practicable, provide the commission with the information and records. A person who provides information or records on request of the commission is not criminally or civilly liable for providing information or records in compliance with this section.

(7) The meetings and proceedings of the commission are confidential and are exempt from the provisions of Title 2, chapter 3.

(8) The records of the commission are confidential information as defined in 2-6-1002 and are

protected from disclosure. The records are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action unless the records are reviewed by a district court judge and ordered to be provided to the person seeking access. The commission shall disclose conclusions and recommendations on request but may not disclose information, records, or data that are otherwise confidential. The commission may not use the information, records, or data for purposes other than those designated by subsections (2)(a) and (2)(c).

(9) The commission may require any person appearing before it to sign a confidentiality agreement created by the commission in order to maintain the confidentiality of the proceedings. In addition, the commission may enter into agreements with nonprofit organizations and private agencies to obtain otherwise confidential information.

(10) A member of the commission who knowingly uses information obtained pursuant to subsection (6) for a purpose not authorized in ~~subsection~~ SUBSECTIONS (2) OR (5) or who discloses information in violation of subsection (8) is subject to a civil penalty of not more than \$500.

(11) Prior to each regular legislative session, the commission shall report its findings and recommendations to the law and justice interim committee and the state-tribal relations committee in accordance with 5-11-210, as well as to the attorney general and the governor. The report must be made available to the public through the office of the attorney general. The commission may issue data or other information periodically, in addition to the biennial report.

NEW SECTION. Section 2. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

NEW SECTION. Section 3. Appropriation. For the biennium beginning July 1, 2021, there is appropriated ~~\$85,000~~ \$20,000 from the state general fund to the department of justice for operation of the missing indigenous persons review commission established in [section 1].

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 20, and the provisions of Title 2, chapter 15, part 20, apply to [section 1].

2

4

- END -